

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

Case No. 03-C-1427

v.

JILAINA H. BAUER

Honorable Judge
Charles N. Clevert

Defendant.

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S RESPONSE TO
DEFENDANT JILAINA H. BAUER'S LOCAL RULE 7.4 EXPEDITED NON-
DISPOSITIVE MOTION TO STAY PROCEEDINGS ON PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT ON DISCLOSURE ISSUES**

Pursuant to Civil Local Rule 7.4, Plaintiff Securities and Exchange Commission (“Commission”) respectfully submits this response to Defendant Jilaine H. Bauer’s Expedited Non-Dispositive Motion to Stay Proceedings on the Commission’s Motion for Summary Judgment on Disclosure Issues (“Motion to Stay Proceedings”) (Doc. # 438-2).

Currently pending before the Court are the parties’ cross motions for summary judgment on the Commission’s insider trading allegations against Ms. Bauer (Doc. ## 399 and 411) and the Commission’s motion for summary judgment against Ms. Bauer on several disclosure issues (Doc. # 433). The Court has previously stated its intention to decide the parties’ cross motions on the insider trading charges before addressing any additional summary judgment motion filed by the Commission. (Doc. # 438-3 at 13-14.) The Court also stated that it would give Ms. Bauer the opportunity to request additional time to respond to any additional motion filed by the Commission. (*Id.* at 14.) In her instant motion, Ms. Bauer asks the Court to go farther and to

stay briefing on the Commission's second motion until the parties' cross motions are decided.

The Commission is cognizant of, and sensitive to, the resource and cost considerations that Ms. Bauer raises in her motion. However, those considerations must be balanced against the interest of judicial economy and the public interest in the resolution of this case. Granting a complete stay of briefing at this point would run counter to these latter considerations by creating an open-ended scheduling situation. The better course of action is that which the Court suggested at the May 6, 2008 telephonic status conference, namely, addressing the parties' cross motions on the insider trading charges first and granting Ms. Bauer additional time in which to respond to the Commission's motion on disclosure issues. (Doc. 438-3 at 14.) The Commission does not oppose granting Ms. Bauer 30 to 60 additional days in which to file her response to the Commission's motion on disclosure issues. Following this course would benefit Ms. Bauer by temporarily forestalling her need to prepare a response while still providing that the second motion would be briefed and ready for the Court's consideration should that eventually become necessary.

For the foregoing reasons, the Commission opposes Ms. Bauer's request for a stay of briefing and suggests instead that the Court grant Ms. Bauer an additional 30 to 60 days in which to prepare and file her response to the Commission's motion for summary judgment on the disclosure issues.

Respectfully submitted,

s/ John E. Birkenheier
John E. Birkenheier
Gregory P. von Schaumburg
Paul N. Mensheha
Securities and Exchange Commission
175 W. Jackson Blvd., Suite 900
Chicago, IL 60604
P: (312) 886-3947 (Birkenheier)
F: (312) 353-7398

Dated: October 9, 2008